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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/568,199
Filing Date: February 10, 2006
Appellant(s): VASONE, RODOLFO

Mardson Q. McQuay, Ph.D.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/04/2011 appealing from the Office action mailed 04/06/2011.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-13.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN

REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

Pub. No. US 2006/0092155, May 4th, 2006.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In addition, the specification provides no examples or explanations of the instant application from start to finish instructing one skill in the art of how to construct the instant application without undue experimentation.

Claim 1 recites newly added limitation “localization within the place of interest,” in the amendment filed on 02/07/2011. It is unclear from the original specification where there is a

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support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation.

Claim 1 recites the limitation of “an electronic equipment having a monitor and a device for controlling movement of an icon of a display screen that possesses an instantaneous menu of search.” *It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation.*

Claim 1 recites the limitation of “the program generate a three dimensional image showing the shortest and best route to be followed by the user from a point at which the user identifies the desired destination to the desired destination along with notes about the shortest trajectory to be covered by means of an object movement.” *It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation.*

Claim 6 recites the limitations of:

a device configured to generate and display a three-dimensional **simulation path from a first point to a second point within a place of interest selected by a user** (*It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation*), the device comprising:

a monitor having a display screen (*It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation*);

a device for controlling movement of an icon in the display screen (*It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation*); and

a computer readable medium including computer executable instructions, wherein the instructions, when executed, implement a method for generating and **displaying the three-dimensional simulation path from the first point to the second point within the place of interest selected by the user** (*It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation*), the method comprising:

selecting the place from a search menu in the display screen (*It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation*);

identifying the first and second points within the place of interest (*It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation*);

generating the three-dimensional simulation path from the first point to the second point (*It is unclear from the original specification where there is a support for the*

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limitation. Therefore, the original specification fails to provide written description requirement for the limitation); and

displaying the three-dimensional simulation path on the display screen with an object in movement *(It is unclear from the original specification where there is a support for the limitation. Therefore, the original specification fails to provide written description requirement for the limitation).*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "an electronic equipment having a monitor and a device for controlling movement of an icon of a display screen that possesses an instantaneous menu of search ". It is unclear of what possesses an instantaneous menu of search.

Claim 1 recites "when the user identifies a desired destination, the computer program generates a three-dimensional image showing a shortest and best route to be followed by the user from a point at which the user identifies the desired destination to the desired destination". It is unclear how the user identifies the desired destination to the desired destination.

Claim 6 recites “the three-dimensional simulation path from the first point to the second point within a place of interest selected by the user.” It is unclear how a simulation path from the first point to the second point is within a place of interest selected by the user.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Kida (US 2006/0092155).

Per claim 1, Kida teaches computer-based device configured to generate a three-dimensional image for facilitation a localization within a place of interest selected from the group comprising departments, store, items in exposition, numbered seats and strategic points of great shopping centers, museums, big stores, supermarkets, companies, houses of entertainment, theaters, fairs, and events the device (figs. 28 and 32; [0210])comprising:

an electronic equipment having a monitor and a device for controlling movement of an icon of a display screen that possesses an instantaneous menu of search (figs. 9, 32 and 38; [0195]; [0196]; [0209]; [0219]) and

a computer program installed in the electronic equipment, wherein the computer program searches the place of interest of the user in different categories of search (fig. 9 and 32; [0195];

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[0196]; [0209]), so that, when the user identifies a desired destination, the computer program generate a three dimensional image showing a shortest and best route to be followed by the user from a point at which the user identifies the desired destination to the desired destination ([0195]; [0196]; [0209]; [0211]; [0212]; [0219]; *which shows calculating the shortest path*) along with notes about the shortest trajectory to be covered by means of an object movement (figs. 9, 32 and 38; [0140]; [0210]; [0211]; [0219]; *which show arrows indicating a direction of travel (i.e. notes) of the user's movement within the 3d environment; fig. 38 with notes 20301 and 20302*).

Per claim 2, Kida teaches the computer oriented way device by three-dimensional image according to claim 1, wherein the computer program, in the electronic equipment, execute in real time, illustrating instantaneously where the products, places or items looked by the user are situated (Kida, [0034]; [0043]; [0113]; [0210]).

Per claim 3, Kida teaches computer oriented way device by three-dimensional image according to claim 1, for where the computer program displayed promotion mechanisms that use audiovisual resources, as a way to call the attention the customers and visitors of the place where the electronic equipment contained in the program is installed (Kida, [0098]; [0211]).

Per claim 4, Kida teaches computer oriented way device by three-dimensional image according to claim 1, the computer program is freely available for consultation in the world-wide network of computers (Kida, [0098]; [0115]).

Per claim 5, Kida teaches computer oriented way device by three-dimensional image according to claim 1, the computer program is carried on a CD or similar media for free distribution to customers ([0024]).

Per claim 6, Kida teaches a device configured to generate and display a three-dimensional simulation path from a first point to a second point within a place of interest selected by a user, the device comprising:

- a monitor having a display screen ([0093]);
- a device for controlling movement of an icon in the display screen ([0093]; and
- a computer readable medium including computer executable instructions, wherein the instructions, when executed, implement a method for generating and displaying the three-dimensional simulation path from the first point to the second point within the place of interest selected by the user ([0095]; [0209]; *which shows calculating a path between two points*), the method comprising:

- selecting the place of interest from a search menu in the display screen (fig. 28);
- identifying the first and second points within the place of interest ([0209]; *which shows paths are calculated between two points*);
- generating the three-dimensional simulation path from the first point to the second point ([0210]; [0219]; *which shows a path that the user should follow*); and
- displaying the three-dimensional simulation path on the display screen with an object in movement (figs 9, 32 and 38; [0210]; [0219]; *which arrows indicating direction of travel of a user movement*).

Claims 7 and 10-12 are rejected under the same rationale as claim 2, and 3-5 respectively.

Per claim 8, Kida teaches the device according to claim 6, wherein the three-dimensional simulation path is a shortest and best route from the first point to the second point ([0209].)

Per claim 9, Kida teaches the device according to claim 8, wherein the displaying further comprises displaying notes about the shortest best route (figs. 9, 32 and 38; [0140]; [0210]; [0211]; [0219]; *which shows notes on direction of travel ; fig. 38 with notes 20301 and 20302.*)

Per claim 13, Kida teaches the device according to claim 6, where the place is selected from the group comprising departments, store, items in exposition, numbered seats and strategic points of great shopping centers, museums, big stores, supermarkets, companies, houses of entertainment, theaters, fairs, and events (figs. 28 and 32; [0210].)

(10) Response to Argument

The Appellant's arguments regarding failure of Claims 1-13 to comply with the written requirement, the Appellant keeps insisting on that the original specification is presumed to be adequate. In addition, the Appellant point out that "the Appellant's response filed on Feb 7, 2011, where specific support for the requested terms have been shown in relation the originally filed claims." The examiner does not agree that each and every element of the current claims is supported by the original claims. It is noted that the original claims are full of 35 U.S.C 112, first paragraph and second paragraph rejections as described the non-final action dated 03/10/2010. In addition, the current claims are resulted from multiple amendments to the original claims in an attempt to correct the issues. It is unclear to the examiner how the original claims would support each and every element of current claims when the original claims by themselves are incomprehensible. Accordingly, the specification fails to provide the written description requirement for claims 1-13 as rejected above.

The Appellant's argument on page 10 states "as to the question that it is unclear "how the user identifies the desired destination to the desired destination" in Claim 1, Appellant respectfully submits that, despite the obscurity of this statement, any route comprises at least two points – a starting or first point and an ending or second point. As such, the shortest and best route to be followed by the user is from a first or starting point to a second or ending point, i.e., as claimed, from "a point the user identifies the desired destination" (the first or starting point) to "desired destination" (the second or ending point). Thus, based at least on the above-summarized explanations. Claim 1 as written is sufficient to particularly point out and distinctly claim the subject matter of the instant invention being claimed therein." The examiner does not agree because the claim language does not specify that the user identifies "the first point" and "the second point." The claim recites "the user identifies a desired destination." It is unclear how the computer would identify what are the "first point" and the "second point" in order to generate a shortest and best route from "the first point" to "the second point" when the user identifies only one desired destination?

In addition, the Appellant points out that Kida fail Kida fails to anticipate the feature of (1) "the shortest and best route to be covered by means of an object in movement" and (2) "displaying a three dimensional simulation path on a display screen with an object in movement" as recited in Claims 1 and 6.

The examiner does not agree because Kida teaches the limitation of claim 1 of "the shortest and best route to be covered by mean of an object in movement" and the limitation of claim 6 of "displaying a three dimensional simulation path on a display screen with an object in movement." For example, in paragraphs [0209], [0210], [0211], Kida teaches the mean for

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calculating the shortest path from the current location to the guide target. As the user moves through the 3d environment, the user is provided with arrow indicator that indicates to the user the direction the user would follow. In fig. 9, [0139], Kida teaches a virtual element to represent the user's current location. When the user moves from one "current location" to another "current location", the virtual element representing user's current location is considered to be an object in movement.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Thanh T. Vu/

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